

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PATRIOT CORP.,

Plaintiff,

v.

ELLOWAY NEVADA REAL
PROPERTIES, LLC,

Defendant.

Case No. 3:23-cv-00612-MMD-CLB

ORDER

This action involves a dispute about the unauthorized sale of equipment subject to a commercial lease. Plaintiff asserts claims for breach of contract, conversion, and unjust enrichment based on Defendant's sale of a piece of equipment without authorization and Defendant's failure to remit the value of the equipment to Plaintiff as required under the parties' lease. (ECF No. 1.) Before the Court is Plaintiff's motion for default judgment (ECF No. 8 ("Motion").) The Court will grant the Motion, except Plaintiff's request for punitive damages.

The Court finds that default judgment is proper because Plaintiff has satisfied the procedural requirements for default judgment pursuant to Fed. R. Civ. P. 55(b). The Clerk of Court properly entered a default against Defendant pursuant to Fed. R. Civ. P. 55(a) because Defendant has failed to appear after having been properly served. (ECF Nos. 3, 4, 7.) Plaintiff has also satisfied the factors for obtaining default judgment articulated in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Accordingly, the Court grants Plaintiff's Motion as set forth below.

The Court finds that Plaintiff has demonstrated entitlement to compensatory damages in the amount of \$98,000.00 for the value of the equipment. The Court further finds that Plaintiff is entitled to the requested attorney's fees in the amount of \$9,400.00,


1 which the Court finds to be reasonable and supported by the prevailing fee provision in
2 the lease (ECF No. 8 at 36), and costs in the amount of \$572.00. Plaintiff requested
3 punitive damages, but the Court disagrees that Defendant's conduct, including the
4 representation to transfer payment for the value of the equipment, warrants imposition of
5 punitive damages.

6 It is therefore ordered that Plaintiff's motion for default judgment (ECF No. 8) is
7 granted in part and denied in part. It is denied as to Plaintiff's request for punitive damages
8 and otherwise granted.

9 It is further ordered that default judgment be entered against Defendant and in
10 favor of Plaintiff as follows: (a) \$98,000.00 for compensatory damages; (b) \$9,400.00 for
11 reasonable attorney's fees; and (c) \$572.00 for costs.

12 The Clerk of Court is directed to enter judgment in accordance with this order and
13 close this case.

14 DATED THIS 7th Day of August 2024.

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17 MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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